

Remarks

Reconsideration and allowance of the subject application are respectfully requested.

In the August 26, 2003 Office Action, claims 11-27 remain rejected under 35 U.S.C. §103(a) over applicants' alleged admissions. The Examiner stated on page 2 of the Action:

The applicant argues that the inventive feature resides in the evaporation step. However, claims 11-27 recites in step b (a) the addition of "an oil containing a stabilizer under conditions suitable to evaporate at least a portion of the first organic solvent." However, there is no step in the claims, either independent or dependent, when the oil [sic, first organic solvent] is evaporated.

It is suggested that the applicant insert said step in the claims to accelerate prosecution of the application.

Following the Examiner's helpful suggestion, and for the purpose of advancing prosecution, we have amended independent claims 11, 23, 26 and 27 above so that step b) in each claim affirmatively recites that at least a portion of the first organic solvent (or acetonitrile solvent, in claim 26) is evaporated. For instance, step b) in claims 11, 23 and 27 now reads as follows:

- b) adding with stirring to the product of step a) an oil containing a stabilizer [under conditions suitable to evaporate], and evaporating at least a portion of the first organic solvent to form an emulsion containing microspheres of polymer;

(Brackets indicate material deleted from original presentation of claims 11, 23 and 27 on January 6, 2000, and underlining indicates added language.)

Step b) in claim 26 is almost identical to claims 11, 23 and 27, except it specifies that the organic solvent is acetonitrile solvent—thus, the changes to step b) in claim 26 are as follows:

- b) adding with stirring to the product of step a) an oil containing a stabilizer [under conditions suitable to evaporate], and evaporating at least a portion of the acetonitrile solvent to form an emulsion containing microspheres of polymer;

(Brackets indicate material deleted from original presentation of claim 26 on January 6,

2000, and underlining indicates added language.)

In addition, for consistency, we have amended step c) in independent claims 11, 23, 26 and 27 above so that step c) affirmatively recites that at least a portion of the first organic solvent (or acetonitrile solvent, in claim 26) is extracted. For instance, step c) in claims 11, 23 and 27 now reads as follows:

- c) adding to the emulsion of step b) a second non-polar organic solvent suitable to extract residual first organic solvent [under conditions suitable to extract], and extracting at least a portion of the first organic solvent;

(Brackets indicate material deleted from original presentation of claims 11, 23 and 27 on January 6, 2000, and underlining indicates added language.)

Step c) in claim 26 is almost identical to claims 11, 23 and 27, except it specifies that the organic solvent is acetonitrile solvent—thus, the changes to step c) in claim 26 are as follows:

- c) adding to the emulsion of step b) a non-polar organic solvent suitable to extract residual acetonitrile solvent [under conditions suitable to extract], and extracting at least a portion of the acetonitrile solvent;

(Brackets indicate material deleted from original presentation of claim 26 on January 6, 2000, and underlining indicates added language.)

Per 37 CFR 1.173(c), each change made in the claims must be accompanied by an explanation of the support in the disclosure of the patent for the change. All of the changes made in claims 11, 23 and 27 relate to the same subject matter: step b) in each claim now affirmatively recites that at least a portion of the first organic solvent is evaporated, and step c) in each claim now affirmatively recites that at least a portion of the first organic solvent is extracted. The changes made in claim 26 in step b) relates to the affirmative recitation that at least a portion of the acetonitrile solvent is evaporated, and in step c) relates to the affirmative recitation that at least a portion of the acetonitrile solvent is extracted. Support for these changes in claims 11, 23, 26 and 27 can be found in the disclosure of the patent at, inter alia, column 1, lines 15-53; column 3, lines 9-47; and column 4, lines 15-59.

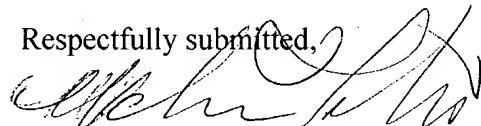
Reissue Application 35/478,822  
Amdt. dated December 24, 2003  
Reply to Office Action of August 26, 2003

We note the Examiner's reminder that the appropriate Declaration should be forwarded to the Patent Office as per MPEP §1444. As suggested in MPEP §1444, applicants will wait until we receive indication that the case is in condition for allowance, and then submit a cumulative supplemental reissue oath/declaration pursuant to 37 CFR 1.175(b)(1).

Having addressed the Examiner's concerns, this reissue application is believed to be in condition for allowance and notice to that effect is earnestly solicited. If the Examiner has any further inquiries, or any other issue relating to this application, he is invited to contact Applicants' representative, the undersigned, at (301) 977-7227.

**[PLEASE NOTE THAT THIS IS A NEW TELEPHONE NUMBER]**

Respectfully submitted,



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